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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/039,176
Filing Date: March 13, 1998
Appellant(s): RINES ET AL.

MAILED

NOV 01 2007

Technology Center 2600

Robert H. Rines
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 31, 2007 appealing from the Office action mailed December 18, 2006.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. The rejection under 35 U.S.C. § 112, first paragraph has been withdrawn.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

4,677,429	Glotzbach	6-1987
4,698,838	Ishikawa et al	10-1987
4,731,811	Dubus	3-1988

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 16-20, 23, 25, 27, 28, 30, 31, 33 and 35-46 rejected under 35 U.S.C. 103(a) as being unpatentable over Glotzbach (US 4,677,429) in view of Dubus (US 4,731,811) and Ishikawa et al (US 4,698,838). Glotzbach discloses in the paragraph bridging columns 2 and 3 that in a driver-operated vehicle provided with a steering wheel region, a vehicle entertainment deck including a pre-recorded storage medium player and AM/FM radio-receiver components. Glotzbach also discloses in the paragraph bridging columns 2 and 3 an apparatus for enabling the driver, while seated at the steering wheel region of the vehicle to operationally access a predetermined component of the entertainment deck, all in a diversionless manner with full

attention to driving. Glotzbach additionally discloses in the paragraph bridging columns 2 and 3 the apparatus comprising separate control switches for turning each of the entertainment components on and off.

Inherent in Glotzbach (as well as Dubus) is the switching of the recording and the playback which are also initiatable by driver-controlled switches at the deck. Glotzbach discloses in the paragraph bridging pages 2 and 3 that the initiation of the control switch switching is also effectable by a driver-operated switch button located at the steering wheel structure. Glotzbach discloses in the paragraph bridging pages 2 and 3 that initiation of the switching is effected optionally by driver live voice-command actuated switches and by switching buttons.

Glotzbach is silent as to a vehicle cellular radio telephone for use by a driver in the vehicle while seated at the steering wheel region of the vehicle. Glotzbach is also silent as to a voice controlled switching arrangement being responsive to the driver selectively speaking predesignated separate voice commands, as well as transmitting stored or received information over the telephone. Glotzbach is additionally silent as to a dictation recorder or tape, which is operated with the radio telephone, as well as, the switching being effected by time or number of dictation recordings.

Ishikawa et al discloses in figure 1 and 2, for example, a vehicle cellular radio telephone for use by a driver in the vehicle, apparatus for enabling the driver, while seated at the steering wheel region of the vehicle, to operationally access the cellular radio telephone separately all in a diversionless manner with full attention to driving. Ishikawa et al also shows in figures 1 and 2 a control switch 38 for enabling the activating and deactivating of the cellular radio telephone.

Dubus shows in figures 1-3 and discloses in column 4, line 56 through column 5, line 15 voice-controlled switching arrangement programmed with a plurality of predesignated separate voice commands for respectively enabling separate operation of each of the predetermined entertainment deck components and also of the cellular radio telephone namely, a voice command for the storage-medium player, a separate voice command for the dictation recorder (i.e. SCRATCHPAD), and a separate voice command for the cellular radio telephone.

The voice-controlled switching arrangement being responsive to the driver selectively speaking such predesignated separate voice commands. Dubus discloses in column 9, line 39 through column 10, line 12 a voice-controlled switching arrangement for transmitting stored or received information over the telephone, as well as, enabling the relaying of the contents of or listen to tape over the radio telephone or in the vehicle.

Dubus shows in figure 9 step 186 that the switching of the player is automatically effected a predetermined time after dictation recording. Dubus shows in figure 9 step 189 that the switching of the player is automatically effected after a predetermined number of dictation recordings.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the driver operated vehicle of Glotzbach with a vehicle cellular radio telephone for use by a driver in the vehicle while seated at the steering wheel region of the vehicle as taught by Ishikawa et al. The rationale is as follows: one of ordinary skill in the art at the time the invention was made would have been motivated to provide a driver operated vehicle with a vehicle cellular radio telephone for use by a driver in the vehicle while seated at the steering wheel region of the vehicle so that "the driver can use the telephone on his driving seat

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without picking up the telephone during operation of the steering wheel". See column 1, lines 45-55 of Ishikawa et al.

It also would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the driver operated vehicle of Glotzbach with a voice controlled switching arrangement being responsive to the driver selectively speaking predesignated separate voice commands, as well as transmitting stored or received information over the telephone as taught by Dubus. The rationale is as follows: one of ordinary skill in the art at the time the invention was made would have been motivated to provide a driver operated vehicle with a voice controlled switching arrangement being responsive to the driver selectively speaking predesignated separate voice commands, as well as, transmitting stored or received information over the telephone to provide a radiotelephone system that "does not require use of a standard telephone set and therefore frees the user's hands almost completely", as well as, provide a phone that has an "answerer" function. See column 9, lines 39-52 and column 10, lines 13-17 of Dubus.

It additionally would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the driver operated vehicle of Glotzbach with a dictation recorder or tape, which is operated with the radio telephone, as well as, the switching being effected by time or number of dictation recordings as taught by Dubus. The rationale is as follows: one of ordinary skill in the art at the time the invention was made would have been motivated to provide a driver operated vehicle with a dictation recorder or tape, which is operated with the radio telephone, as well as, the switching being effected by time or number of

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dictation recordings to save notes in a hands free manner, as well as, notify the user if the scratchpad is full. See column 8, lines 15-24 of Dubus.

(10) Response to Argument

Appellant asserts in the penultimate paragraph on page 16 that the applied prior art (in particular the description of Nojiri et al in Glotzbach) “involves a very different structure and operation from applicants’ claimed invention.” First, it should be noted that the rejection supra is an obvious rejection based on Glotzbach, Dubus and Ishikawa et al not a single reference anticipatory rejection. Therefore, Glotzbach is relied upon for the teaching several units, in particular an AM/FM radio control unit and a storage medium stereo control unit that manipulate from the steering wheel region by way of a push button or a sound recognition system.

Nonetheless, in the paragraph bridging pages 16 and 17, as well as, the two full paragraphs on page 17 appellant tries to distinguish the driver operated vehicle of Glotzbach from appellant’s device by stating that appellant’s have a “very different concept”. Contrary to appellant’s assertion, Glotzbach is not unlike appellant’s device. Appellant’s, however, have chosen to compare the push button feature of Glotzbach with the sound recognition system of appellant’s device. Instead of comparing the sound recognition system of Glotzbach with the sound recognition system of appellant’s device, and comparing the push button aspect of appellant’s device and the push button feature of Glotzbach.

Additionally, in the ultimate paragraph on page 17 it is asserted that appellant’s device has separate voice command identification words, and in the first full paragraph on page 18 appellant asserts that “For whatever may be disclosed in Glotzbach or Nojiri, it certainly does not

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anticipate or even hint applicants' different approach and advantages, nor read upon the specific structure of applicants' claims". As noted above, the rejection is an obvious rejection based on Glotzbach, Dubus and Ishikawa et al not a single reference anticipatory rejection. Dubus shows in figures 1-3 and discloses in column 4, line 56 through column 5, line 15 a voice-controlled switching arrangement programmed with a plurality of predesignated separate voice commands for respectively enabling separate operations, as required by the claims.

Appellant asserts in lines 1-3 on page 19 that "There isn't even the slightest hint, let alone disclosure, of live driver words being spoken for switching, for example, the Dubus car radio on and off as in applicants' concepts". Contrary to appellant's assertion, Dubus gives full disclosure in column 1, lines 42-46 of "live" driver words not just "testing" as purported by appellant. Dubus "provides a 'hands-free' radiotelephone system using an elaborate process of man-machine dial with oral dialing". This disclosure of Dubus, as well as, the concern for safety while operating a motor vehicle, as stated in the Dubus patent, is evidence that Dubus is not "just testing", but also utilizing "live" driver words, as required by appellant's claimed invention.

In the section entitled *Group One* on page 19, appellant asserts that Dubus does not "claim a separate predesignated live voice command for identifying and enabling the voice-controlled switching operation in the vehicle of the entertainment store medium player component . . . of the dictation recorder component . . . of the cellular radio telephone." As stated supra and contrary to appellant's assertion, Dubus discloses in column 4, line 56 through column 5, line 15 a voice controlled switching operation of a dictation recorder component (i.e. SCRATCHPAD) and of a cellular radio telephone (i.e. TELEPHONE). Furthermore, it should again be noted that the rejection supra is an obvious rejection based on Glotzbach, Dubus and

Ishikawa et al not a single reference anticipatory rejection. Glotzbach discloses in the paragraph bridging columns 2 and 3 that in a driver-operated vehicle provided with a steering wheel region, a vehicle entertainment deck including a pre-recorded storage medium player and AM/FM radio-receiver components. These components, according to Glotzbach, can be enabled by way of the sound recognition system.

In the second paragraph on page 20 appellant states that claims 16, 19 and 20 add “the redundancy of a separate set of driver switch buttons.” Inherent in Glotzbach (as well as Dubus) is the switching of the recording and the playback which are also initiatable by driver-controlled switches at the deck. Glotzbach also discloses in the paragraph bridging pages 2 and 3 that the initiation of the control switch switching is also effectable by a driver-operated switch button located at the steering wheel structure. Glotzbach discloses in the paragraph bridging pages 2 and 3 that initiation of the switching is effected optionally by driver live voice-command actuated switches and by switching buttons. Glotzbach shows redundancy just as appellant’s claimed invention.

Also, in the second paragraph on page 20 appellant states claims 17 and 18 recite “automatic switching of the player a predetermined time after dictation, and after a predetermined number of dictation recordings, respectively”. Dubus shows in figure 9 step 186 that the switching of the player is automatically effected a predetermined time after dictation recording. Dubus shows in figure 9 step 189 that the switching of the player is automatically effected after a predetermined number of dictation recordings.

In the third paragraph on page 20, appellant states “claims 40-42, for example, reciting relaying the dictation recorder playback over the cell phone; claim 43, relaying the disc player

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content; and claim 45, relaying AM/FM received radio transmissions". Dubus discloses these recitations in column 10, lines 13-17 by providing a phone that has an "answerer" function.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/David Davis/

Conferees:

/Dwayne Bost/

Dwayne Bost

William Korzuch /WK/